

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BILLIE JEAN JOHNSON,
Plaintiff,

v.

KROGER COMPANY #540, et al.,
Defendants.

3:08-CV-1714-P

ORDER ACCEPTING IN PART AND REJECTING IN PART
THE FINDINGS AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE

On January 13, 2009, the magistrate judge filed findings and conclusions recommending that process be issued on Plaintiff's employment discrimination claims against the Kroger Company, and that all claims against the union – the UFCW and its representative, Billy Brown – be dismissed as frivolous. Plaintiff did not file a formal objection. She filed instead a third amended complaint, within the ten-day objection period, alleging misrepresentation claims only against the UFCW and Billy Brown.

Since Plaintiff is proceeding *pro se*, the court must inquire if she truly intends to abandon her employment discrimination claims against the Kroger Company, which she previously exhausted through the Equal Employment Opportunity Commission, receiving a right to sue letter.

Liberally construing all four complaints filed in this case, including her latest third amended complaint, it appears that Plaintiff is seeking to allege employment discrimination claims against the Kroger Company, her former employer, *and* misrepresentation claims against her union, UFCW Local Union 1000, and its representative, Billy Brown.

The magistrate judge twice before advised Plaintiff about the requirements of Rule 8(a), of the Federal Rules of Civil Procedure, and granted her an opportunity to amend her complaint. The court now grants Plaintiff one last opportunity to amend her complaint (which will be her Fourth Amended Complaint) to allege all employment discrimination claims against the Kroger Company, *and* all misrepresentation claims against the UFCW Local Union and Billy Brown.

Plaintiff is reminded that her fourth amended complaint should be one, complete document and in compliance with Rule 8(a) of the Federal Rules of Civil Procedure. It should name all parties being sued and their addresses, and contain a jurisdictional statement as set out in Rule 8(a)(1). The Fourth Amended complaint should also include a brief statement setting out the facts in support of Plaintiff's employment discrimination claims against Kroger, *and* her misrepresentation claims against the UFCW Local Union and Mr. Brown. *See* Rule 8(a)(2). Lastly, the fourth amended complaint should set out the relief which Plaintiff is seeking in this action. *See* Rule 8(a)(3).¹

Plaintiff is cautioned that the fourth amended complaint will replace and supersede all prior complaints filed in this action. As such, the fourth amended complaint should be a

¹ Rule 8(a) reads as follows:

A pleading that states a claim for relief must contain:

- (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;
- (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and
- (3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

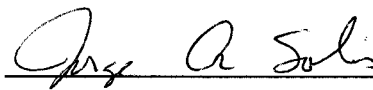
complete, stand alone document, which does not rely on allegations made or documents attached to the prior complaints filed in this case.

IT IS THEREFORE ORDERED that the Recommendation of the Magistrate Judge is ACCEPTED insofar as it recommends that process be issued on the Kroger Company on Plaintiff's employment discrimination claims, and that Mike Bleu be dismissed. The recommendation is REJECTED insofar as it recommends dismissal of any claims against the UFCW Local Union 1000 and Billy Brown.

IT IS FURTHER ORDERED that Plaintiff will FILE a fourth amended complaint, in compliance with Rule 8(a) as set out above, on or before twenty (20) days from the date of this order. Service of process will be held in abeyance pending the filing of Plaintiff's fourth amended complaint.

The Clerk will mail a copy of this order to Plaintiff.

Signed this 16th day of April, 2009.



JORGE A SOLIS
UNITED STATES DISTRICT JUDGE